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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT McDOWELL

Petitioner,

:

CIVIL ACTION

:

No. 2:18-cv-01466-AB

v.

:

:

THERESA DELBALSO, et al.,

Respondents.

:

:

FILED

JAN 03 2020

By KATE BARKMAN, Clerk
Dep. Clerk

ORDER

AND NOW, this 3 day of January, 2020, upon consideration of the Petition for Writ of Habeas Corpus, inclusive of all exhibits thereto, the Commonwealth's Response, inclusive of all exhibits thereto, the other documents filed by the parties, and after review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, is ORDERED that:

1. The Report and Recommendation is **APPROVED AND ADOPTED**;
2. The Petition for a Writ of Habeas Corpus is **GRANTED**, with respect to Petitioner's claim that trial counsel was ineffective for failing to object to the reasonable doubt jury instruction provided at his trial; within ninety (90) days of this Order, the Commonwealth must retry Petitioner or release him from all custody; and
3. Claims Two and Three are **DEFERRED**, inasmuch as the writ is being granted on other grounds.



ANITA B. BRODY, J.